



July 13, 2000

Mr. Edward H. Perry
Assistant City Attorney
City Of Dallas
1500 Marilla 70 North
Dallas, Texas 75201

OR2000-2637

Dear Mr. Perry:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 137536.

The City of Dallas (the "city") received a written request for certain legal opinions from the city attorney's office regarding the requestor's seniority and pay grade as a city police officer.¹ You have submitted to this office as responsive to the request two memoranda from 1996 that you contend are excepted from disclosure pursuant to, *inter alia*, section 552.107(1) of the Government Code.

Section 552.107(1) of the Government Code excepts from required public disclosure information coming within the protection of the attorney-client privilege. In instances where an attorney represents a governmental entity, the attorney-client privilege protects only an attorney's legal advice and client confidences. *See* Open Records Decision No. 574 (1990). After reviewing the two memoranda at issue, we conclude that both of these documents consist of the attorneys' legal opinion and advice to city officials. The city, therefore, may withhold the two memoranda in their entirety pursuant to section 552.107(1) of the Government Code.²

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

¹Although the requestor also seeks records pertaining to certain reverse race discrimination lawsuits against the city, you indicate that the city has been unable to identify any such records. Consequently, the city need not comply with this aspect of the request. *See* Open Records Decision No. 445 (1986) (governmental body not required to obtain information not in its possession or to prepare new information in response to request).

²Because we resolve your request under section 552.107(1), we need not address the other exceptions to disclosure that you raised.

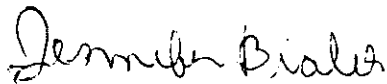
This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Jennifer Bialek
Assistant Attorney General
Open Records Division

JHB/RWP/ljp

Ref: ID# 137536

Encl. Submitted documents